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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 602]

भोपाल, शुक्रवार, दिनांक 9 नवम्बर 2018—कार्तिक 18, शक 1940

संसदीय कार्य विभाग
(विंध्याचल भवन, बी विंग, द्वितीय तल)

भोपाल, दिनांक 9 नवम्बर 2018

क्र. 1311-एफ (2)14-17-दो-अड़तालीस.—माननीय राज्यपाल महोदय का आदेश, दिनांक 2 नवम्बर 2018, एतद्द्वारा, सर्वसाधारण की जानकारी के लिए प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
महेन्द्र सोनूने, उपसचिव.

RAJ BHAVAN, BHOPAL, Dated 2nd November 2018

ORDER

1. WHEREAS, Dr.. Devendra Pratap Singh R/o Bhopal, Madhya Pradesh have submitted a petition dated 12th February, 2018 for alleged disqualification of Shri Uma Shankar Gupta and Shri Deepak Joshi, Members of the State Legislative Assembly under clause (1) Article 191 read with Article 192(2) of the Constitution of India.

2. WHEREAS, averments have been made in the said petition that Shri Uma Shankar Gupta and Shri Deepak Joshi are elected to the State Legislative Assembly of Madhya Pradesh, but they have misuse their positions as Members of the Legislative Assembly to garner illegitimate benefits from Barkatullah University, Bhopal. Therefore, the two said MLAs are liable to be declared disqualified from membership of the Assembly.

3. AND WHEREAS, in pursuance of clause (2) of Article 192 of the Constitution of India, the opinion of the Election Commission of India has been sought regarding the alleged disqualification of Shri Uma Shankar Gupta and Shri Deepak Joshi for being Members of the Legislative Assembly.

4. WHEREAS, the Election Commission of India has submitted its opinion dated 18th October 2018 (Annex-I).

5. The Election Commission of India opined that,—

"3. It is pertinent to note that the complaint has neither alleged nor provided any document to show that the Respondents held or are holding any office under the Government which could be termed as an office of profit. The office of Minister is not covered by the disqualification provided for holding office of profit and if any facility was illegally provided to a Minister or a Member of the Legislative Assembly, the same does not create a ground for disqualification under Article 191.

4. In view of the above, the Commission hereby opines that Shri Uma Shankar Gupta and Shri Deepak Joshi, Members of the Legislative Assembly of Madhya Pradesh are not disqualified under the provisions of Article 191 of the Constitution for holding office of profit."

6. I have carefully considered that facts on record as contained in the opinion of Election Commission of India and having been fully satisfied therewith.

7. Now, THEREFORE, I, Smt. Anandiben Patel, Governor of Madhya Pradesh, in exercise of the powers conferred on me under clause (1) of Article 192 of the Constitution, do hereby decide that the petition dated 12th February, 2018 filed by Dr. Devendra Pratap Singh R/o Bhopal, Madhya Pradesh against Shri Uma Shankar Gupta and Shri Deepak Joshi, Members of the State Legislative Assembly are not maintainable under Article 192(1) of the Constitution of India.

ANANDIBEN PATEL,
Governor.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi—110 001

REFERENCE CASE No. 9 (G) OF 2018

[Reference Received from the Hon'ble Governor of Madhya Pradesh under Article 192 (2) of the Constitution of India].

In re : Reference Case No. 9(G) of 2018-Reference received from the Hon'ble Governor of Madhya Pradesh under Article 192 (2) of the Constitution of India on the Question of disqualification of Shri Uma Shankar Gupta and Shri Deepak Joshi, Members of the Legislative Assembly of Madhya Pradesh.

Opinion

1. This is a reference seeking 'opinion' of the Election Commission of India which has been received from the Hon'ble Governor of Madhya Pradesh on 11th October 2018 under Article 192 (2) of the Constitution of India on the complaint dated 12th February 2018 filed by Dr. Devendra Pratap Singh, R/o Bhopal, Madhya Pradesh wherein the Complainant has sought disqualification of Shri Uma Shankar Gupta and Shri Deepak Joshi, Members of the Legislative Assembly of Madhya Pradesh (hereinafter referred to as 'the Respondents') for holding office of profit.

2. The Complainant has submitted that the Respondents have misused their positions as Members of the Legislative Assembly of Madhya Pradesh to garner illegitimate benefits from Barkatullah University, Bhopal as evidence of which he has attached the Log Book of Vehicles provided to the Respondents by the said University as well as the Salary Slip of some persons deployed at the camp office of the Respondents.

3. It is pertinent to note that the complainant has neither alleged nor provided any document to show that the Respondents held or are holding any office under the Government which could be termed as an office of profit. The office of Minister is not covered by the disqualification provided for holding office of profit and if any facility was illegally provided to a Minister or a Member of the Legislative Assembly, the same does not create a ground for disqualification under Article 191.

4. In view of the above, the Commission hereby opines that Shri Uma Shankar Gupta and Shri Deepak Joshi, Members of the Legislative Assembly, of Madhya Pradesh are not disqualified under the provisions of Article 191 of the Constitution for holding office of profit.

Sd./-
(SUNIL ARORA)
Election Commissioner.

Sd./-
(O. P. RAWAT)
Chief Election Commissioner.

Sd./-
(ASHOK LAVASA)
Election Commissioner.

Place : New Delhi

Date : 18-10-2018